

# Notice of Allowability

Application No.

10/687,914

Examiner

DANIEL G. MARIAM

Applicant(s)

NEHSE ET AL.

Art Unit

2624

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a telephone interview dated April 5, 2007.
2. ☒ The allowed claim(s) is/are 1-38.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 10/20/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 4/5/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.



## **EXAMINER'S AMENDMENT AND REASONS FOR ALLOWANCE**

### **Examiner's Amendment**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Walter Ottesen (Reg. No. ( 25,544) on April 5, 2007.

The application has been amended as follows:

Amend claim 1 as follows:

At line 6, delete "the" and replace it with "the"

At line 7, delete ",",

At line 6, after the limitation "optimized" insert "wherein said target function includes a plurality of focus values each being different from the other"

Amend claim 14 as follows:

At line 6, delete "the" and replace it with "the"

At line 7, after the limitation "optimized" insert "wherein said target function includes a plurality of focus values each being different from the other"

At line 7, delete ",",

### **Reasons for Allowance**

2. The following is an examiner's statement of reasons for allowance: the instant invention optimizes target quantities for optical precision measuring. Upon acquisition of an image data,

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the instant claimed invention obtains ancillary parameters, and derives control data for influence quantities. Thereafter, the instant claimed invention optimizes a target function which is defined by a plurality of focus values each being different from the other, by determining a weighted summation of the individual ones of the ancillary parameters, and then determines all ancillary parameters in this manner that they have a like extremum of the functional dependency of the influence quantities. Additionally, the instant claimed invention obtains ancillary parameters from a workpiece that is to be measured, and determines the courses of the ancillary parameters so they have a like extremum of the functional dependency from the influence quantity. Once this is found the instant claimed invention determines: the total course of the ancillary parameters in dependence upon the influence quantity by a weighted summation of the courses of the ancillary parameters and an extremum of the total course of the ancillary parameters and then determines the corresponding value of the influence quantity at the site of the specific extremum as control datum for the influence quantity. It is for these reasons in combination with all of the other elements of the claims that claims 1-38 are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### **Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat. No. 5,801,374, and a publication to James Wyant "Precision Optical Testing".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. MARIAM whose telephone number is 571-272-7394. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DANIEL G MARIAM  
Primary Examiner  
Art Unit 2624

April 5, 2007